

COMMONWEALTH OF MASSACHUSETTS – PLYMOUTH DISTRICT
OFFICE OF THE DISTRICT ATTORNEY



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PRESS RELEASE

**For Immediate Release:
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BROCKTON, MA- Plymouth County District Attorney Timothy J. Cruz announced today that the Supreme Judicial Court has determined that lifetime parole is not constitutional under our state constitution because the statutory scheme violates separation of powers. The Supreme Judicial Court announced this determination in Commonwealth v. Casey Cole and two companion cases, Gangi v. Massachusetts Parole Board and Commonwealth v. Parrillo.

On August 23, 2011, Casey Cole pleaded guilty in the Brockton District Court to the charge of failing to register as a sex offender under chapter 6, section 178H(a), where the defendant had been classified as a Level 2 sex offender. The defendant registered an address as his primary residence. Eight months later, the police received information that the defendant had not lived at that address for four months. The defendant had never provided any change of address to the authorities, as he was required to do. He was sentenced to a six-month probationary term and lifetime parole. When he discovered the requirements of lifetime parole, he filed a motion to correct his sentence claiming that the imposition of lifetime parole was illegal.

On appeal the defendant claimed that the lifetime parole statute was unconstitutional because it violated the constitutional requirement of separation of powers. He claimed that the executive branch, the Parole Board, was performing a function of the judiciary: sentencing. The Supreme Judicial agreed, finding that the statutory scheme of lifetime parole violates our separation of powers principles that are mandated in the state constitution. The Court wrote, “We conclude that CPSL (lifetime parole) grants to the parole board a quintessential judicial power, the power to determine whether a defendant should be sentenced to additional terms of imprisonment, and therefore violates art. 30.” The Court determined that the statutory scheme unconstitutionally permitted the executive branch to exercise the judicial power to impose sentences. The Court determined that this portion of the statute could not be severed from the remainder, and therefore struck the entirety of the lifetime parole statute as unconstitutional. Therefore, the portion of the defendant’s sentence that imposed lifetime parole must be vacated.

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This decision affects approximately 275 to 300 people statewide who have been sentenced to lifetime parole. Approximately half of those sentenced are currently under the supervision of the Parole Board, while the other half are serving their incarcerated sentences.

District Attorney Cruz stated, “The effect this case has is to remove that automatic hammer on offenders who refuse to confine their actions to the requirements of the law, thereby decreasing their incentive to improve themselves and become law-abiding members of society. I am disappointed with the loss of this public safety tool that was intended to protect vulnerable people and children. I hope the legislature will act to remedy this.”

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